

The opinion in support of the decision being entered today is *not* binding
precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte NEVENKA DIMITROVA and ANGEL JANEVSKI

Appeal 2007-0926
Application 09/818,303¹
Technology Center 2600

Decided: August 14, 2007

Before LANCE LEONARD BARRY, ALLEN R. MACDONALD, and JAY
P. LUCAS, *Administrative Patent Judges*.

LUCAS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellants appeal from a Final Rejection of claims 1 to 59 under
authority of 35 U.S.C. § 134. The Board of Patent Appeals and
Interferences has jurisdiction under 35 U.S.C. § 6(b).

¹ Application filed March 27, 2001. The real party in interest is U. S. Philips
Corp.

Appellants' invention relates to a system and method for providing information about a video program, more particularly for enabling a television user to "obtain information concerning particularized aspects of a TV program." (Specification 2, l. 4). To give a sense of the invention, consider this excerpt:

As an illustration, consider the user 40 to be watching a movie on TV. Examples of a program-level questions that the user 40 might ask include: "What is the name of the movie?", "Who directed the movie?", and "At what time does the movie end?" Note that the preceding program-level questions have global context only and do not have local context. Examples of a segment-level questions that the user 40 might ask include: "What is the name of the actor appearing on the screen right now?", "In what city is the current scene located?", and "Who composed the music that is playing in the background?" Note that the preceding segment-level questions are at the segment level and thus have local context, since the meaning of the questions depend on the particular program segment being dynamically viewed. Definitionally, a question is considered to have "local context" if its meaning depends on the particular program segment being dynamically viewed.

(Specification, 7, l. 15)

Claim 1 and Claim 28 are exemplary:

1. A video query processing method, comprising:

providing video query processing software;

providing video content;

dynamically linking the software to the video content;

receiving by the software a query keyed to a segment of the video content;

ascertaining if the query needs to be recast and prompting for user input if the query needs to be recast; and

determining by the software an answer to the query.

28. A video query processing system, comprising video query processing software dynamically linked to video content and configured to receive a query keyed to a segment of the video content and configured with means for ascertaining if the query needs to be recast prompting for user input if the query needs to be recast and to determine an answer to the query.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Reimer	US 6,553,221	Sep. 3, 1996
Menard	US 6,061,056	May 9, 2000
Wang	US 6,766,320 B1	Jul. 20, 2004
		(filed Aug. 24, 2000)

Rejections:

Claims 1-2, 4-11, 13-25, 27-29, 31-38, 40-52, and 54-59 stand rejected under 35 U.S.C. § 102(b) for being anticipated by Reimer.

Claims 3, 12, 30, and 39 stand rejected under 35 U.S.C. § 103(a) for being obvious over Reimer in view of Wang.

Claims 26 and 53 stand rejected under 35 U.S.C. § 103(a) for being obvious over Reimer in view of Menard.

Rather than repeat the arguments of Appellants or the Examiner, we make reference to the Briefs and the Answer for their respective details. Only those arguments actually made by Appellants have been considered in this decision. Arguments which Appellants could have made but chose not

to make in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii) (2004).²

We affirm-in-part.

ISSUE

The issue is whether Appellants have shown that the Examiner erred in rejecting the claims under 35 U.S.C. §§ 102 and 103(a). Appellants contend that the claimed subject matter is not anticipated by Reimer, or rendered obvious by Reimer in combination with Wang or Menard, for failure to disclose a key claimed element, and for failure to properly combine the references. The element at issue is the claim limitation “ascertaining if the query needs to be recast and prompting for user input if the query needs to be recast”. The Examiner contends that each of the three groups of claims is properly rejected.

FINDINGS OF FACT

Findings with respect to the rejection of claims 1-2, 4-11, 13-25, 27-29, 31-38, 40-52, and 54-59 under 35 U.S.C. § 102(b) for being anticipated by Reimer.

1. Appellants have invented a method, system, and program (hereinafter “method”) for accepting and answering questions about specific segments of a TV program (claimed under the

² Appellants have not presented any substantive arguments directed separately to the patentability of the dependent claims or related claims in each group, except as will be noted in this opinion. In the absence of a separate argument with respect to those claims, they stand or fall with the representative independent claim. *See In re Young*, 927 F.2d 588, 590, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991).

term “video content”). (Specification, page 1 bottom to page 2, top).

2. As disclosed, the method ascertains if a user’s question is ambiguous and then asks the user a query (e.g., by a pop-up message on the output device) to resolve the ambiguity. (Specification 11). For example, during a scene when two actors are on the stage, the user may ask “What other movies has this actor been in?”; which question could refer to either actor. As disclosed, the method would present a query to the user, such as “Is the actor Captain Picard or Number One?” (*Id.*). The user would make a choice (e.g., Captain Picard), and “the query processing 60 can recast the query in the following unambiguous form: “What other movies has the actor playing Captain Picard been in?”.” (Specification 11, l. 14).
3. The Reimer reference also teaches a query system used for accepting and answering questions about a movie or other video program. (Col. 3, l. 34 *ff*). Users can ask questions of various types, keyed to frames or scenes in the program (Col. 17, l. 28 *ff*). Reimer also faced the issue of ambiguous questions: “Note that the question” “Who is this person?” is somewhat ambiguous, in that it could mean “Who is the principle actor?”, or “Who is the stunt double actor?”, or “Who is the character?”. (Col. 16, ll. 55 to 58). Reimer approaches the ambiguity by two possible solutions: first “by having a very detailed menu

structure, so that the precise question is identified by the user. However, users may find this approach somewhat tedious.” Or, second, by “mak[ing] assumptions as to what the user’s precise questions are.” (Col. 16, ll. 59 to 68). This second choice, making assumptions concerning the user’s true meaning, is the preferred approach disclosed in Reimer. (*Id.*).

4. We do not find any teaching in Reimer prompting the user about an ambiguity in the question, or indeed about any need to reformulate or recast the query.

Findings with respect to the rejection of claims 3, 12, 30, and 39 under 35 U.S.C. § 103(a) for being obvious over Reimer in view of Wang.

5. Wang presents a general purpose search engine architecture “designed to handle a full range of user queries, from complex sentence-based queries to simple keyword searches. The search engine architecture includes a natural language parser that parses a user query and extracts syntactic and semantic information.” (Col. 2, l. 59 *ff*).
6. Wang teaches that access to the server computer may be through “a network 106, such as the Internet”. (Col. 4, l. 47).
7. Wang also teaches a user interface that, in conjunction with the user, ascertains if the query is accurate or not, and prompts the user to provide input to confirm the intended meaning of the question. See Column 14, lines 23 to 27 and lines 42 to 46.

Findings with respect to the rejection of claims 26 and 53 under 35 U.S.C. § 103(a) for being obvious over Reimer in view of Menard.

8. Menard presents a television monitoring system that automatically selects program material of interest to the user. (Title). The preferences of a user are maintained in a profile, which preferences are used as a basis for the search of material in the video program. (Column 5, bottom). The search can result in the selection of the exact segment of the video program that the user requested. (Col. 6, l. 30).
9. Menard also teaches that the preliminary profile is presented to the user for approval, and then provides for user input to recast the profile of requested terms to more exactly reflect individual requirements. (Col. 5, bottom to Col. 6, top).

PRINCIPLES OF LAW

On appeal, Appellants bear the burden of showing that the Examiner has not established a legally sufficient basis for the rejection of the claims.

It is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim. See *In re King*, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986) and *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984).

References within the statutory terms of 35 U.S.C. § 103 qualify as prior art for an obviousness determination only when analogous to the claimed invention. *In re Clay*, 966 F.2d 656, 658, 23 USPQ2d 1058, 1060

(Fed. Cir. 1992). Two separate tests define the scope of analogous prior art: (1) whether the art is from the same field of endeavor, regardless of the problem addressed and, (2) if the reference is not within the field of the inventor's endeavor, whether the reference still is reasonably pertinent to the particular problem with which the inventor is involved. *In re Deminski*, 796 F.2d 436, 442, 230 USPQ 313, 315 (Fed. Cir. 1986); see also *In re Wood*, 599 F.2d 1032, 1036, 202 USPQ 171, 174 (CCPA 1979) and *In re Bigio*, 381 F.3d 1320, 1325, 72 USPQ2d 1209, 1212 (Fed. Cir. 2004). Furthermore, “there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness’ . . . [H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *KSR Int’l v. Teleflex Inc.*, 127 S. Ct. 1727, 1741, 82 USPQ2d 1385, 1396 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)).

ANALYSIS

Appellants contend that Examiner erred in rejecting claims 1 to 59 under 35 U.S.C. §§ 102(b) and 103(a). Reviewing the documents of record in the file and the findings of facts cited above, we address the key issue raised by the Appellants, namely, “There is no disclosure or suggestion for determining if a query needs to be recast within *Reimer et al.* Furthermore, there is no disclosure or suggestion for prompting for user input if the query needs to be recast within *Reimer et al.*” (Br. 8, l. 4.)

Reimer teaches a video related query processing method, very similar to the one disclosed. However, the issue of handling an ambiguous query is not addressed in the same manner in the reference as in the claims. While the claims clearly require that the user be prompted for input if the query needs to be recast, Reimer teaches two approaches (a list of very definite questions, and making assumptions) neither of which is the claimed method.

Examiner makes two arguments concerning this difference. (Answer 5, 1. 3 *ff*). First he contends that Reimer teaches permitting the user to ask multiple questions. We find that this feature of Reimer does not meet the requirements of the “ascertaining” and “prompting” limitations of the claim. (See FFs 1 to 4 above). The Examiner’s second argument equates selecting a query from a menu to ascertaining if a question needs to be recast and simultaneously recasting it. We do not find this line of reasoning persuasive, as understood, as the separate step of ascertaining and prompting are not disclosed.

We thus do not find that all of the claim elements can be found in the Reimer reference, and we thus do not affirm the Examiner’s rejection of claims 1-2, 4-11, 13-25, 27-29, 31-38, 40-52, and 54-59 under 35 U.S.C. § 102(b).

Claims 3, 12, 30, and 39 have been rejected under 35 U.S.C. § 103(a) for being obvious over Reimer in view of Wang. Examiner has expressed his rejection on page 14 of the Examiner’s Answer. Wang teaches an improved user interface for a search engine, in which a query is applied to a database. Under the teachings of our guiding courts concerning joining references (see citations above), we notice that the two references are

addressing the same field of endeavor, namely understanding queries to a database in a user interface. One of ordinary skill in the art would have looked to other solutions in this field when trying to improve the interpretation of queries. We especially notice column 14 of Wang, in which a user is asked to confirm the intent of his query when it is not fully apprehended by the natural language interpreter. See FFs 5 to 7 above. Thus we find that Wang supplies the teachings necessary to render the claims cited under this rejection to be obvious.

In view of Wang teaching both the Internet use and a prompting of a user for input to recast a query, we find that claims 3, 12, 30, and 39 are rendered obvious by the teachings of Reimer and Wang.

Claims 26 and 53 were rejected under 35 U.S.C. § 103(a) for being obvious over Reimer in view of Menard. Menard is cited by the Examiner (see Examiner's Answer 15, bottom) for teaching the use of the preferences of the user. We agree with this application of the art, and add that Menard also teaches at the bottom of column 5, and the top of column 6, the presentation of the keyword search file to the user for ascertaining if it needs to be recast, and prompting for a customization of that file. We note that the "ascertaining" need not be totally performed by the software, according to the claims, but can involve the user. Thus we find that claims 26 and 53 are also rendered obvious over the prior art, in this case Reimer and Menard.

CONCLUSION OF LAW

Based on the findings of facts and analysis above, we conclude that Appellants have shown the Examiner erred in rejecting claims 1-2, 4-11, 13-25, 27-29, 31-38, 40-52, and 54-59 under 35 U.S.C. § 102(b).

We conclude that Appellants have not shown the Examiner erred in rejecting claims 3, 12, 26, 30, 39, and 53 under 35 U.S.C. § 103(a).

DECISION

The rejection of claims 1-2, 4-11, 13-25, 27-29, 31-38, 40-52, and 54-59 under 35 U.S.C. § 102(b) for being anticipated by Reimer is reversed.

The rejection of claims 3, 12, 30, and 39 under 35 U.S.C. § 103(a) for being obvious over Reimer in view of Wang is affirmed.

The rejection of claims 26 and 53 under 35 U.S.C. § 103(a) for being obvious over Reimer in view of Menard is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED-IN-PART

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